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No. 9/8/86-6Lab/438—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Frick India Ltd., 13/3, Mathura Road, Faridabad.

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,
 FARIDABAD

Reference No. 19 of 1985

between

SHRI SACHENDER BABU, WORKMAN AND THE RESPONDENT MANAGEMENT OF
 M/S. FRICK INDIA LTD., 13/3, MATHURA ROAD, FARIDABAD

Present.—

Shri Manohar Lal, for the workman.

Shri S. L. Gupta, for the respondent management.

AWARD

This industrial dispute between the workman Shri Sachender Babu and the respondent management of M/s Frick India Ltd., 13/3, Mathura Road, Faridabad has been referred to this Court by Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/190/84/590005, dated 15th February, 1985 under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication:—

The terms of the reference are:—

Whether the termination of services of Shri Sachender Babu was justified and in order ?
 If not, to what relief is he entitled ?

According to the demand notice, the workman was appointed on 9th November, 1983 and his services were terminated on 1st September, 1984 without any notice or any compensation. He has prayed for reinstatement with continuity of service and with full back wages.

This claim has been contested by the management. It is alleged that the claimant was appointed for probation for six months and there was no necessity to issue any notice. The termination of the claimant is in order. It is purview of the amended new section 2(00) (bb) inserted in the Industrial Dispute Amendment Act, 1984. It is, therefore, alleged that he was appointed on 29th November, 1983 on probation and this probation period was extended for three months. His services were terminated on 31st August, 1984.

Rejoinder has been filed. It is further asserted that the termination letter is illegal and void *ab initio*.

The claim was contested on the following issue:—

As per reference ?

I have heard the representative of both the parties and have gone through the evidence on record. By findings on the issue are as under:—

Issue No. 1

The management has examined MW-1. Shri Davinder Singh, who has proved application M-1 and form of application M-1. Trial report is Ex. M-3 and appointment letter is Ex. M-4. He was appointed on probation. On the confidential report his probation was extended,—*vide* Ex. M-5. Extension letter is Ex. M-6. Another confidential report was sought which is Ex. M-7. His work was not satisfactory. His probation was again extended,—*vide* mark 'A'. The report Ex. M-9 was obtained. There was no improvement in his work. Hence termination letter Ex. M-10 was issued. He was issued letter to get his accounts clear. He did not turn up to receive the dues.

The workman appeared as WW-1 and supported his contention. He was appointed on 9th November, 1983 and his services were terminated on 1st September, 1984. It is admitted case of the parties that the workman had completed 240 days of service at the time of termination. Contention of the respondent is that the workman was appointed only on probation and hence his services could be terminated during the period of probation as per contract of service. Hence

his services could be terminated without complying with the provisions of section 25-F of the Industrial Disputes Act, 1947 in view of the amended proviso of section 2(00)(bb) which reads as follows:—

(a).....

(b).....

(bb) termination of service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or on behalf contained therein, or.

(c).....

Relying on the abovesaid provision, the representative of the workman has contended that according to the appointment letter Ex. M-4 the workman was appointed for the period of six months and under the term No. 3 it could be extended at the discretion of the management and during the period of probation his services could be terminated without assigning any reason and without any notice and payment of compensation in lieu thereof. It is contended that under this cause his services could be terminated at any time. In the present case contract of service was renewed. His probation period was extended twice by that time. He has completed more than 240 days of service. Hence provisions of section 25-F of the Industrial Disputes Act, 1947 were not attracted. In my opinion section, 2(00)(bb) does not make section 25-F of the Industrial Disputes Act nugatory. It applies only on such cases in which the workman has not completed 240 days of service. I, therefore, find that the termination of services of the workman amounts to retrenchment. He had completed 240 days services on 31st August, 1984 when his services were terminated. Provisions of section 25-F were not complied with. Hence the order of termination of services of the workman is illegal and unjustified. He is, therefore, entitled to reinstatement with continuity of service and with full back wages.

The award is given accordingly.

Dated 15th November, 1985.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 7, dated 7th January, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

No. 9/86-6Lab/440.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Elites Engineers and Manufacturers, 67, DLF, Industrial Estate Faridabad.

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 361 of 1983

between

SHRI AJIT SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF
M/S ELITES ENGINEERS AND MANUFACTURES, 67, DLF, INDUSTRIAL
ESTATE, FARIDABAD

Present.—

Shri M. K. Bhandari, for the workman.

Shri R. P. Singh, for the respondent-management.

AWARD

This industrial dispute between the workman Shri Ajit Singh and the respondent management of M/s. Elites Engineers and Manufactures, 67, D.L.F., Industrial Estate, Faridabad had been referred to this Court by the Hon'ble Governor of Haryana.—vide his order No. ID/FD/51-83/45185-90, dated 2nd September, 1983 under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Ajit Singh was justified and in order ? If not, to what relief is he entitled ?

According to the averments in the claim statement and demand notice, the workman was appointed on 6th May, 1981 as turner at Rs. 450 per mensem. He proceeded on sanctioned leave on 18th November, 1982 to 18th December, 1982. He was to join duty with effect from 19th December, 1982 but he fell sick and went to his home town. He reached Faridabad on 20th December, 1982 and reported for duty on 21st December, 1982 but the respondent refused to allow him duty. He made a complaint to the Labour Inspector on 23rd December, 1982. It is alleged that there was union of the workmen in the factory. He was member of that union. His services have been terminated because he was member of the union. He has stated that his termination is illegal. He has claimed reinstatement with continuity of service and with full back wages.

The management has contested this claim of the workman. Date of appointment as claimed by the workman is denied. It is *inter alia* pleaded that the workman was employed only on 1st May, 1982. There was illegal strike of the workers from 12th December, 1982 to 23rd December, 1982. A settlement was arrived at under section 18 (i) of the Industrial Disputes Act, 1947 and each workman was advised to resume duty on 21st December, 1982. All the workmen reported for duty except the claimant. It is further alleged that the workman did not turn up to 18th December, 1982. A letter was written to him on 19th December, 1982 that his name was struck off for remaining absent by making full application of the Model Standing Orders.

The claim was contested on the following issues:—

- (1) Whether the reference is within the purview of section 2-A of the Industrial Disputes Act ?
- (2) As per reference ?
- (3) Whether the claimant abandoned the job ?

I have heard the representatives of both the parties and gone through the evidence on record. My findings on the issues are as under:—

Issue No. 1

This issue has neither been pressed nor argued by the parties. Hence it is decided against the management.

Issues Nos. 2 & 3

Both the issues are interconnected and decided together.

The workman has examined himself as WW-1 and relied upon Ex. M-1 and which is alleged to be proof of his sanctioned leave. He has not given any proof in support of his statement that he was appointed on 6th May, 1981. The management has contended that he was appointed on 1st May, 1982. The workman has admitted his signatures on the appointment letter Ex. M-3. According to his appointment letter he was appointed on 1st May, 1982 to 31st October, 1982. M-1 Copy of attendance register also proves that the workman was appointed on 1st May, 1982. Hence on 21st December, 1982 when his services were alleged to be terminated, the workman had not completed 240 days of service. Hence provisions of section 25-F of Industrial Disputes Act did not come into action. Hence the workman is not entitled to the benefits of section 25-F of the Industrial Disputes Act, 1947. The representative of the workman has contended that under the Model Standing Orders, the workman could be terminated only if he was absent for more than 10 days. In the present case, the claimant was not present for more than 10 days. Hence his services could be terminated. Model Standing Orders are subject to provisions of section 25-F of the I.D. Act. The workman has not completed 240 days of service and hence he is not entitled for any protection under section 25-F of the I.D. Act. Ex. W-1 on which the workman has relied upon states that there was strike in the factory. Shri Ajit Singh, the claimant was away. He was allowed to join duty on 18th December, 1982. The workman admittedly did not come to duty on 18th December, 1982. He came to join duty on 21st December, 1982. Hence the management was justified in disallowing duty on 21st December,

1982. The next contention of the authorised representative of the workman is that according to the appointment letter M-3, his services were required up to 31st October, 1982. He continued up to 19th December, 1982 and his services could not be terminated under the Model Standing Orders. This contention of the workman has no force. The workman had not completed 240 days of service and hence his services were not protected under section 25-F of the I.D. Act. There is no other provision which protects his services.

In view of the above discussions I find that the order of termination of services of the workman is legal and justified. He is not entitled to any relief.

The award is given accordingly.

Dated the 13th November, 1985.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

Endorsement. No. 9, dated the 7th January, 1986.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the I. D. Act.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

No. 9/8/86-6Lab/441.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of Administrator, Municipal Committee, Rewari.

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 421 of 1984

between

SHRI KRISHANSINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF
ADMINISTRATOR, MUNICIPAL COMMITTEE, REWARI

Present.

Shri P. R. Yadav, for the workman.

Shri M. S. Gupta, for the respondent-management.

AWARD

This industrial dispute between the workman Shri Krishan Singh and the respondent-management of Administrator, Municipal Committee, Rewari, has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/76-84/43211, dated 5th December, 1984, under section 10(i)(c) of the Industrial Disputes Act, 1947, for adjudication. The terms of the reference are :—

Whether the termination of services of Shri Krishan Singh was justified and in order ? If not, to what relief is he entitled ?

According to the demand notice, the workman was appointed on 22nd January, 1981 as Moharrar Sewadar. His services were illegally terminated on 20th February, 1984. The workman has claimed that this order of termination is illegal. He has claimed reinstatement with full back wages and continuity of service.

This claim of the workman has been contested by the management. It is admitted that the workman was appointed as Sewadar but he was appointed by the Deputy Commissioner, and his services were terminated by the Deputy Commissioner. Hence the Deputy Commissioner is necessary party.

It is further contended that he was appointed for two years on probation. He is governed by the conditions of appointment letter. It is claimed that his services were legally terminated.

The reference was contested on the following issue :—

1. As per reference ?

I have heard the reps. of both the parties and gone through the evidence on record. My findings on the issue are as under :—

Issue No. 1:—

It has been admitted by MW 1 that the workman was appointed on 22nd January, 1981 and his services were terminated on 20th February, 1984,—vide order, dated 17th February, 1984. He was appointed on probation for two years, and this probation was continued. It was admitted that no order of extending his probation was issued, to the workman. The services of the workman were continuous. It is further cleared that he has completed 240 days when his services were terminated by the Deputy Commissioner. His probation period was not extended as it was not conveyed. No compliance of provisions of Section 25-F of the Industrial Disputes Act, was done before terminating the services of the workman. The workman was appointed in Octroi post which is an industry. Hence the compliance of Section 25-F was mandatory. The representative of the management has contended that if the workman was appointed on probation and he remained on probation till he is not confirmed. He has relied upon the judgement of Hon'ble Kerala High Court in Goramola Biny Ltd., vs. Industrial Tribunal, Kerala AIR 1969, Page 313. This judgement is not applicable to the fact of this case. In the present case, the workman has completed 240 days of service. The order of extending the period of probation was not conveyed to him. Provisions of section 25-F of the Industrial Disputes Act were not complied with before terminating his services. Hence the order of termination is illegal and unjustified. He is entitled to be reinstated with continuity of service and with full back wages. It is contended that the Deputy Commissioner is necessary party and he was dismissed by the Deputy Commissioner. I do not agree with the contention of the representative of the management because the claimant was employee of the respondent committee which has been rightly impleaded as party. Deputy Commissioner was not different identity to be impleaded as party.

In view of the above discussions. I find that the order of termination is illegal and un-justified. He is entitled to be reinstated with continuity of service and with full back wages.

The award is given accordingly.

Dated the 6th December, 1985.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

Endst. No. 10, dated the 7th January, 1986

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

No. 9/8/86-6Lab/442.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Jullundhar Auto Manufacturing Company Pvt. Ltd., Gurgaon.

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 220 of 1985

between

SHRI SHIV CHARAN SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S
JULLUNDHAR AUTO MANUFACTURING COMPANY PVT. LTD., GURGAON

Present:—

Shri Shardha Nand, for the workman.

Shri S. K. Goswami, for the respondent-management.

AWARD

This industrial dispute between the workman Shri Shiv Charan Singh and the respondent-management of M/s Jullundhar Auto Manufacturing Company Pvt. Ltd., Gurgaon has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/192-84/18534—39, dated 25th April, 1985 under section 10 (i) (c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Shiv Charan Singh was justified and in order? If not, to what relief is he entitled?

According to the demand notice, the workman was employed on 16th February, 1977 and his services were terminated illegally on 14th October, 1984. In his claim statement, he has alleged that he was paid Rs 7,256.28 P. on 14th October, 1984. He has prayed for reinstatement with continuity of service and with full back wages.

The management has contested the reference that the claimant was discharged simplicitor. He has received the amount in full and final settlement of his claims. He has also got deducted advance Rs 4,000. Hence he is not entitled to be reinstated.

The reference was contested on the following issues:—

1. Whether the reference is bad in law?
2. What is the effect of accepting Rs 7,256.28 P. voluntarily by the workman from the management?
3. As per reference?

I have heard the representatives of both the parties and gone through the evidence on record. My findings on the issues are as under:—

Issue Nos. 1 to 3:

The workman has admitted that he has signed Ex. M-2 which contains the details of retrenchment compensation given to the workman. It is also mentioned in it that no other claim is left against the company except bonus from 1st April, 1984 to 14th October, 1984 and that he has also been terminated on 14th October, 1984 on account of misbehaviour and refusal to work. The workman has not alleged that his signatures were obtained by fraud and mis-representation. He has also admitted Ex. M-1 in which it is stated that one machine remains loose for which there was a loss of 40 pieces. It is therefore, clear that the management has lost faith in him and he has accepted his full and final,—vide Ex. M-2. But this Ex. M-2 has not been challenged by the workman in his demand notice or in the claim statement. Hence this reference is bad. Moreover the workman has voluntarily accepted the amount of Rs 7,256.28 P. as retrenchment compensation and his services stands terminated with effect from 14th October, 1984. As the workman voluntarily accepted the amount because his behaviour was bad and he also refused to work. Hence this termination amounts to voluntarily abandonment. The workman has settled his dispute after receiving the amount. Hence he is not entitled to be reinstated. Hence the award is given accordingly,

Dated 16th December, 1985.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

Endst. No. 11, dated the 7th January, 1986

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the I. D. Act.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.